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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,602	01/23/2002	Michele Crudele	FR920000078US1	7002

7590 02/23/2005

Gerald R Woods
IBM Corporation T81/503
PO Box 12195
Research Triangle Park, NC 27709

EXAMINER

CHEN, TE Y

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,602

Applicant(s)

CRUDELE ET AL.

Examiner

Susan Y Chen

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

This office action is in response to the amendment filed on 10/18/2004.

Claims 1-10 are pending for examination, claims 1-2 and 5-10 have been amended.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claims 1 and 7, these claims are amended with the word "entire" that renders the claimed feature as new matter, because the instant specification fails to provides support to generate a data integrity code based on the entire contents of the base file to be updated. As a matter of fact, the phrase "entire" is not shown anywhere in the specification.

As to claims 2-9, these claims have the same defect as their base claims 1 and 7, hence are rejected for the same reason.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 7 and 10, are rejected under 35 U.S.C. 102(e) as being anticipated by Balcha et al. (U.S. Patent No. 6,233,589).

As to claims 1 and 7, Balcha et al. (hereinafter referred as Balcha) discloses a system [e.g., Fig. 1 and associated texts] with method for updating previously stored files, comprising:

a) generating a data integrity code based on the contents of the base file to be updated [e.g., col. 2, lines 56-59; Fig. 4 and associated texts; col. 3, lines 21-28];

b) generating a delta file by applying a differencing algorithm to the base file to be updated and to a modified form of the base file [e.g., col. 3, lines 9-11] ; and

c) creating a delta distribution package including the generated data integrity code and the generated delta file [col. 4, lines 61-67].

As to claims 6 and 10, Balcha discloses a system with method for updating a previous installed files, comprising the following functional steps:

a) receiving a delta distribution package containing a data integrity code (or file signature), one or more byte offsets identifying the location of code sequences in the previously installed based file, and one or more directives for utilizing either the new code sequences or code sequences in the base file that are identified by the byte offsets [e.g., the LAN Backup Server 30, Fig. 2; col. 5, lines 3-49; col. 6, lines 1-col. 7, line 39].

b) comparing the data integrity code received in the delta distribution package to a data integrity code already stored in the endpoint station and if the compared codes match, executing the directives received in the delta distribution package to combine new code sequences received in the delta distribution package [e.g., the creation of revised file (44, Fig. 3) and revised signature file (48, Fig. 3) at col. 7, lines 46-col. 8, line 18; A table-driven CRC processing of col. 8, lines 43-45, col. 8, lines 60 – col. 9, lines 50; Fig. 3 and associated texts];

c) updating logic responsive to a match between the compared data integrity codes to retrieves the directives and code sequence from the delta distribution package and to execute the directives to recreate a modified form of the base file [e.g., Fig. 4 and associated texts; col. 10, lines 30-46].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5 and 8-9, are rejected under 35 U.S.C. 103(a) as being unpatentable over Balcha et al. (U.S. Patent No. 6,233,589), in view of Reichenberger (A publication "Delta Storage for Arbitrary Non-Text Files", 1991 ACM 089791-429, P 144-152).

As to claims 2 and 8, excepted the method as recited in claim 1, Balcha further discloses that the step of generating a delta file further includes the step of writing one or more blocks into the delta file, each of said blocks comprising byte offsets identifying the location of code sequence in the base file and a directive to manipulate the identified code sequence into a modified form of the base file [e.g., col. 5, lines 50 – col. 7, lines 39].

Balcha fails to disclose a copy directive as claimed by applicant.

However, Reichenberger discloses a copy directive to replicate the identified code sequence into the modified form of the base file [e.g., sections 3.1 – 3.3, P. 145-150].

Balcha and Reichenberger are in the same field to construct delta file for facilitating the updating of a base file via a file difference algorithm. Thus, with the teachings of Balcha and Reichenberger in front of him/her, an ordinary skilled person in the art would have been motivated to modify Balcha delta file differencing algorithm with Reichenberger's copy directive for replicating the identified code sequence into the modified form of a base file. Because by doing so, the combined system would provide a smallest possible compact representation of the delta script that would produce a faster comparison during differencing a base file [e.g., Reichenberger: first paragraph, page 151].

As to claims 3 and 9, excepted the method as recited in claims 2 and 8, the combined system further discloses that the step of generating a delta file further includes the steps of writing one or more new byte sequences into the delta file along with one or more directives defining where such new byte sequences are to be written into the modified form of the base file [e.g. Balcha : Fig. 4 and associated text; col. 3, lines 50-58; col. 10, lines 31-46].

As to claim 4 excepted the method as recited in claim 3, the combined system further discloses that the additional step of distributing the delta distribution package to one or more endpoint stations on which the base file is already installed [e.g., Balcha : col. 4, lines 48-67].

As to claim 5, excepted the method as recited in claim 4, the combined system further discloses that the system including the steps of: receiving the delta distribution package in at least one endpoint station in which the base file is already installed; comparing the data integrity code received in the delta distribution package to a data integrity code associated with the base file already installed in the endpoint station; if the data integrity codes match, updating the installed base file by retrieving the directives and code sequences from the delta distribution package and executing the directives to rebuild the installed base file into a modified form of that file [e.g., Balcha : col. 5, lines 4-39; the example between col. 13 and 14].

Response to Arguments

Applicant's arguments filed on 10/18/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an original base file is compared to a modified form of that file to identify all of the byte-level code sequences which are common to the two files) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Ajtai et al. (U.S. Patent No. 6,374,250) discloses a system for differential compression of data from a plurality of binary sources; Ayers et al. (U.S. Patent No. 6,389,592) discloses a method for deployment of incremental version of applications.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y Chen whose telephone number is 571-272-4016. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Y Chen
Examiner
Art Unit 2161

February 17, 2005



UYEN LE
PRIMARY EXAMINER